

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-001-02-1-5-00533  
**Petitioners:** Emma G. & Edward M. Johnson  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 001254101740014  
**Assessment Year:** 2002

The Indiana Board of Tax Review (the "Board") issues this determination in the above matter, and finds and concludes as follows:

### Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held on February 11, 2004, in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$75,800 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 19, 2004.
3. The Board issued a notice of hearing to the parties dated July 28, 2004.
4. A hearing was held on September 14, 2004, in Crown Point, Indiana before Special Master Kathy J. Clark.

### Facts

5. The subject property is located at: 5158 Adams Street, Gary, in Calumet Township.
6. The subject property is a two story, frame, single family dwelling.
7. The Special Master did not conduct an on-site visit of the property.
  - a) Assessed Value of subject property as determined by the DLGF:  
Land \$8,900      Improvements \$66,900      Total \$75,800
  - b) Assessed Value requested by Petitioner:  
Land \$8,900      Improvements \$35,500      Total \$44,400

8. The following persons were present and sworn in at the hearing:

For Petitioners: Edward Johnson, Owner  
For Respondent: Sharon S. Elliott, Staff Appraiser, Cole-Layer-Trumble

### Issue

9. Summary of Petitioners' contentions in support of an alleged error in the assessment:

- a) The home immediately to the north (5148 Adams) of the subject is identical to the subject and is assessed much lower. *Johnson testimony; Petitioner Exhibits 2, 3, 4.*
- b) The home to the south (5168 Adams) of the subject is brick and assessed lower. *Johnson testimony.*

10. Summary of Respondent's contentions:

- a) The Respondent compared the property record cards for the subject and the home to the north (5148 Adams). The difference was in a deduction given for the area. The Petitioner had not received the same percentage deduction. *Elliott testimony.*
- b) The Respondent printed a new property record card using the same percentage deduction. The Petitioners' home value was changed to \$26,800. When added to the land value of \$8,900, the new total assessed value is \$35,700. *Elliott testimony.*
- c) After correcting the value, the subject property now falls within the value of other bi-levels in the area. *Elliott testimony; Respondent Exhibit 4.*

### Record

11. The official record for this matter is made up of the following:

- a) The Petition and all subsequent submissions by either party.
- b) The tape recording of the hearing labeled BTR #374.
- c) Exhibits:
  - Petitioner Exhibit 1: Photograph of Subject
  - Petitioner Exhibit 2: Photograph of Immediate Neighbor-Identical
  - Petitioner Exhibit 3: Assessment of Subject
  - Petitioner Exhibit 4: Assessment of Immediate Neighbor
  - Petitioner Exhibit 5: Assessments of Other Neighbors
  
  - Respondent Exhibit 1: Form 139L
  - Respondent Exhibit 2: Subject Property Record Card
  - Respondent Exhibit 3: Subject Photograph

Respondent Exhibit 4: Comparable Sales Analysis  
Respondent Exhibit 5: Comparable Property Record Cards/Photographs  
Respondent Exhibit 6: Property Record Cards of Petitioners' Comparables

Board Exhibit A: Form 139 L  
Board Exhibit B: Notice of Hearing  
Board Exhibit C: Sign in Sheet

d) These Findings and Conclusions.

### **Analysis**

13. The most applicable law is:
- a) A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
  - b) In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis”).
  - c) Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner's evidence. *Id.; Meridian Towers*, 805 N.E.2d at 479.
14. The Respondent acknowledged that an error had been made when applying a deduction given for the area. Correcting the deduction changes the assessed value of the home to \$26,800. The total assessed value becomes \$35,700 (\$26,800 home + \$8,900 land).
15. Both parties agree with the corrected value of \$35,700.

### **Conclusion**

16. The Respondent identified an error in the Petitioners' assessment and agreed that the value should be changed. The Board accepts the parties agreement and finds that the assessed value should be \$26,800 for the dwelling and \$8,900 for the land.

## Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the total assessment should be changed.

ISSUED: \_\_\_\_\_

\_\_\_\_\_  
Commissioner,  
Indiana Board of Tax Review

## IMPORTANT NOTICE

### - APPEAL RIGHTS -

**You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.**